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## E.P.A. Accused of a Predetermined Finding on Mercury

By FELICITY BARRINGER

**W**ASHINGTON, Feb. 3 - The Environmental Protection Agency's inspector general charged on Thursday that the agency's senior management instructed staff members to arrive at a predetermined conclusion favoring industry when they prepared a proposed rule last year to reduce the amount of mercury emitted from coal-fired power plants.

Mercury, which can damage the neurological development of fetuses and young children, has been found in increasingly high concentrations in fish in rivers and streams in the United States.

The inspector general's report, citing anonymous agency staff members and internal e-mail messages, said the technological and scientific analysis by the agency was "compromised" to keep cleanup costs down for the utility industry.

The goal of senior management, the report said, was to allow the agency to say that the utility industry could do just as good a job through complying with the Bush administration's "Clear Skies" legislation as it could by installing costly equipment that a stringent mercury-control rule would require.

Cynthia Bergman, a spokeswoman for the environmental agency, responded that the criticism "is not true." The agency, she said, has "wide latitude" in determining which data should be used to set a pollution control standard based on the best available technology. She said the mercury rule scheduled for release by March 15 "would take us from no regulation to a mandatory 70 percent cut."

Coal-fired power plants are the largest remaining domestic source of mercury emissions in the United States, according to agency figures, although the agency believes that factories and utilities in Asia, which emit more than 1,000 tons of mercury annually, contribute significantly to the mercury that enters the food chain in the United States. Domestic coal-fired power plants emitted 48 of the 113.2 million tons produced in the United States in 1999.

The Clear Skies legislation is under consideration in the Senate's Environment and Public Works Committee, and the release of the inspector general's report gives new ammunition to Democrats and environmental groups, which had accused the Bush administration of giving preferential treatment to the utility industry in the legislation.

Clear Skies is intended to achieve a 70 percent cut in mercury and two other major pollutants, nitrogen oxides and sulfur dioxide, but extends to 2018 the amount of time that previous legislation would have given the industry to comply. It also proposes a system of trading pollution credits, similar to the one used successfully in the 1990's to reduce acid rain. Even if the legislation fails, the environmental agency has prepared a regulation that mirrors it.

Like the mercury proposal, this proposal on nitrogen oxides and sulfur dioxide incorporates a

mechanism for trading pollution credits.

The report said the agency's staff was instructed to determine that the best pollution-control methods available to power plant owners would cut mercury emissions to 34 million tons from 48 million tons, a result that was approximated the third time the agency made its computer calculations. Earlier results showing that this technology might achieve greater reductions were rebuffed by senior managers, the report said.

It concluded that the agency should go back to the drawing board and "conduct an unbiased analysis of the mercury emissions data."

Senator James M. Inhofe, the Oklahoma Republican who is chairman of the Environment and Public Works committee, lashed out at the inspector general, Nikki Tinsley, a Democrat who has recently issued another harsh critique charging the agency's senior management with politically driven interference in regulatory deliberations.

"This is another example that Nikki Tinsley has politicized the office," he said in a statement. And Scott Segal, director of the Electric Reliability Coordinating Council, an industry trade group, said the new report and an earlier critique appear "to go well beyond the expertise of the office."

Senator John Kerry of Massachusetts, the defeated Democratic presidential nominee, issued a statement saying that Ms. Tinsley's report revealed "one of the most disturbing examples I've seen of an administration allowing spin and junk science to endanger the health of our children." And Bill Becker, the executive director of a coalition of state and local air pollution control officials, said: "The I.G.'s findings are troubling, but not unexpected. Nearly every state in the country has issued fish consumption advisories due to mercury-poisoned waters. E.P.A. must comply with the law and require stringent cleanup measures at utilities."